



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,385	01/09/2001	Dirk Lenz	BEIERSDORF69	9792

7055 7590 03/05/2007  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 ROLAND CLARKE PLACE  
RESTON, VA 20191

EXAMINER
----------

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
----------	--------------

1771

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/05/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/05/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

## Office Action Summary

Application No.

09/743,385

Applicant(s)

LENZ ET AL.

Examiner

Daniel Zirker

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-33,35,37,38,40,42-47 and 53-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37,38 and 40 is/are allowed.
- 6) ☒ Claim(s) 21-33,35,42-47 and 53-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 1771

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 21-33, 35, 42-46, 53, 54 and 57 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. More particularly, after careful reconsideration and review of the entire specification the Examiner must again repeat his holding found earlier in the application such as in Paragraph No. 3 of Paper No. 102605 and Paragraph No. 3 of Paper No. 082504 that the negative limitation "nonadhesive" used to describe the claimed metallocene-polyethylene in claim 21 is "new matter" under the rule set forth in Ex parte Grasselli et al, cited earlier during the prosecution to the effect that limitations such as "free of" a certain ingredient or element are new matter in the absence of an express disclosure reciting the same. This term is clearly the equivalent of "free of adhesive", particularly when applicants' specification is, again, upon reconsideration, totally devoid of any discussion whatsoever regarding the adhesive properties of the metallocene-polyethylene nonwoven backing material before it is coated with adhesive. As to the disclosure at page 5, lines 19-20 of the specification, which the Examiner in the last Office Action cited as providing support for this limitation, which states:

"Furthermore, the nonwoven that has been treated to make it self-adhesive can also be employed with outstanding effect as an adhesive tape."

Art Unit: 1771

this passage upon careful reconsideration is now clearly believed to not provide adequate support for the presence of adhesive materials such as those that are adhesive, but not self-adhesive, from being present.

3. Claims 21-33, 35, 42-47 and 53-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '922 taken in view of Yang et al, substantially for reasons already of record, as most recently set forth in Paragraph No. 2 of Paper No. 20061101, together with the following additional observations. The Examiner has little to add to his position of record except to note that with respect to applicants' argument that the references fail to provide proper motivation for the use of either a polyolefin such as polyethylene, much less metallocene catalyzed polyethylene, in the WO '922 fabrics (Response, page 11, 2<sup>nd</sup> complete paragraph), that WO '922 clearly teaches the presence of polyethylene fibers as suitable for use in its nonwoven fabrics (e.g. page 4). This fact, coupled with the many advantageous properties of materials formed from metallocene catalyzed polyethylene taught in Yang et al is believed to provide more than ample motivation for using such materials.

4. Claims 37, 38 and 40 remain allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is 571-272-1486. The examiner can normally be reached on Monday - Thursday from 8:30 to 6:00. The examiner can also be reached on alternate Fridays.

Art Unit: 1771

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on 571 - 272 - 1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Zirker  
Primary Examiner  
Art Unit 1771

A handwritten signature in black ink that reads "Daniel Zirker". The signature is written in a cursive, flowing style.